

## Proposition 69

### DNA Samples. Collection. Database. Funding. Initiative Statute.

#### Background

**DNA Samples.** Deoxyribonucleic Acid (DNA) is the genetic material contained in most living organisms, including human beings, that controls the production of substances needed for the organisms' development and life activities. The genetic information contained in DNA can be used, like a chemical fingerprint, to identify and differentiate between individuals. Using DNA evidence, law enforcement agencies and district attorneys have been able to effectively identify, arrest and convict criminals, as well as exonerate persons wrongly accused or convicted of a crime.

Under current law, any person convicted of a serious felony offense is required to provide to law enforcement a blood sample from which DNA is obtained. The samples are collected by the California Department of Corrections (CDC), the Department of the Youth Authority (Youth Authority), and local jails, and then submitted to the California Department of Justice (DOJ). The DOJ laboratory analyzes the samples and stores the DNA profiles of convicted felons in a statewide DNA databank. The DNA profiles are also submitted by DOJ to the Combined DNA Index System, a national repository maintained by the Federal Bureau of Investigation. The information in the DNA databank is compared to evidence collected from crime scenes for possible matches.

**Court Fines.** Persons convicted of certain crimes, including violations of traffic laws, may be ordered by the court to pay a fine. The total fine typically consists of a "base fine" which goes entirely to local government and a "penalty assessment" which is shared by the state and local governments. The latter is often referred to as a "criminal penalty." The state and local governments use the revenue to support a variety of programs and activities.

#### Proposal

This measure makes the following changes to current law.

**Expands DNA Collection.** This measure expands the collection of DNA to include all convicted felons and some nonfelons, as well as individuals arrested for certain offenses. Figure 1 lists the individuals who would be required to provide DNA samples under this measure.

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**Figure 1**

**Expanded DNA Collection Categories**

**Upon Enactment of Measure**

- ✓ Adults and juveniles convicted of *any* felony offense.
- ✓ Adults and juveniles convicted of *any* sex offense or arson offense, or an attempt to commit any such offense (not just felonies).
- ✓ Adults *arrested* for or charged with felony sex offenses, murder or voluntary manslaughter (or the attempt to commit such offenses).

**Additionally, Starting in 2009**

- ✓ Adults *arrested* for or charged with *any* felony offense.

The expanded list of qualifying offenses would be retroactive regardless of when the person was convicted (adults) or adjudicated (juveniles). As a result, DNA would be obtained from adults and juveniles already serving time in correctional facilities as well as those who are on parole or probation for these offenses.

**Requires Timely Collection and Analysis of Samples.** Immediately following either arrest or conviction, state or local law enforcement personnel would be required to collect a sample of inner cheek cells of the mouth (known as a "buccal swab" sample). This sample would be in addition to the right thumbprint and full palm print impression of each hand required by current law. Also, state and local law enforcement would continue to have the authority to collect blood samples upon request by DOJ.

The measure requires DOJ to contract with public or private laboratories to process samples that it has not analyzed within six months of receipt. The DOJ and CDC would be required to publish and place on their Web sites a quarterly progress report on the processing of DNA samples.

**Provides Additional Funding.** This measure raises existing criminal penalties to fund the proposed expansion of DNA collection. Specifically, an additional \$1 would be levied for every \$10 in penalties, with revenues shared by the state and local governments. The state would receive 70 percent of the revenue in the first two years, 50 percent in the third year, and 25 percent annually thereafter. Local government would receive the difference to support DNA sample collection, as well as other related activities such as analysis, tracking, and processing of crime scene samples.

**Creates a New Crime.** This measure makes it a felony offense punishable by 2, 3, or 4 years in prison for a person required to submit a sample or print to tamper (or attempt to tamper) with a DNA sample, or thumb or palm print impression.

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## **Fiscal Effects**

**State Government.** This measure would result in net state costs of potentially several million dollars initially, increasing to nearly \$20 million annually when costs are fully realized in 2009-10. This estimate primarily reflects the costs of analyzing additional DNA samples, partially offset by new revenues proposed by the measure. Specifically, CDC and the Youth Authority would require additional state resources to collect DNA from prisoners and wards currently in custody, as well as parolees, for crimes covered by the measure. In addition, DOJ would incur costs to hire and train staff, purchase equipment and supplies, acquire additional laboratory space, and contract with public or private labs for the processing of DNA samples.

The measure requires a General Fund loan of \$7 million to DOJ for the implementation of its provisions. This loan would be repaid with interest, no later than four years after it is made with revenue generated from the increased penalty assessments.

**Local Government.** This measure would likely result in no net costs to local governments on a statewide basis. Local law enforcement agencies would require staff and training to collect additional DNA samples. These costs—estimated to be several millions of dollars initially increasing to less than \$8 million annually beginning in 2008-09—would likely be more than fully offset by the local share of penalty revenues generated under the measure. Local penalty revenue above the amount required to support the costs of DNA collection would be used for other related activities, such as analysis of DNA evidence collected from crime scenes.

**Other Effects on State and Local Government.** This measure could result in other unknown fiscal effects on state and local governments. To the extent that expanded DNA collection results in increased investigations and prosecutions, and higher rates of incarceration, there would be unknown increased costs to state and local governments. It may also lead to unknown state and local savings by identifying individuals who, having been falsely accused and imprisoned, would be released from incarceration.

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